4598

BILL NO. S-79-08-09

SPECIAL ORDINANCE NO. S-143-79

AN ORDINANCE of the City of Fort Wayne concerning the acquisition of land and the construction, maintenance, operation and financing of off-street parking facilities thereon, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said project, the safeguarding of the interests of the holders of said bonds, and other matters connected therewith.

WHEREAS, the Common Council of the City of Fort Wayne, Indiana finds that surveys and studies have been made by the Redevelopment Commission of Fort Wayne and recommendations of said organization have been made showing that a necessity exists for the acquisition, construction and installation of an off-street parking structure at a certain location in the downtown area of the City of Fort Wayne hereinafter more particularly set forth; that the acquisition of land and the construction and operation thereon of said off-street parking facilities are necessary for the proper protection of the public safety and welfare and will be of public utility and benefit to the City and its citizens; that the cost of the acquisition of land and construction thereon of said off-street parking facilities may be provided by the issuance of revenue bonds which will not constitute a general obligation of the City; and

WHEREAS, said surveys, field studies, analyses and recommendations have heretofore been considered and approved by the Board of Public Safety, the Board of Public Works, and the Common Council, and the Common Council has heretofore directed the Board of Public Works to proceed with said facilities as provided by law; and

WHEREAS, the Common Council further finds that the Board of Public Works in conjunction with the City's Redevelopment Commission entered into contracts for the purchase of the major portions of the following described lands for use as off-street parking facilities in the City of Fort Wayne, Allen County, Indiana, to-wit:

> Beginning at the point of intersection of the northerly right-of-way line of Washington Boulevard and the easterly right-of-way line of Clinton Street; thence westerly along the northerly right-of-way line of Washington Boulevard to the westerly right-of-way line of Calhoun Street; thence southerly along the westerly right-of-way line of Calhoun Street to the southerly right-of-way line of the alley connecting Clinton Street on the east and Calhoun Street on the west; thence easterly along the southerly right-of-way line of said alley to the easterly right-of-way line of Clinton Street; thence northerly along the easterly right-of-way line of Clinton Street to the point of beginning.

and also caused plans, specifications and estimates of the cost of the purchase and construction of said facilities to be prepared, and adopted a resolution declaring the public utility and benefit of the facilities to the City and its citizens; that the Board of Public Works caused to be published, as provided by law, notice of the adoption of said resolution and of a public hearing open to all persons interested in or affected by such proceedings to be held on July 12, 1979; that on said date said Board held a public hearing at which time said Board took final action determining the public utility and benefit of the proposed facilities to the City and its citizens and confirmed its declaratory resolution; and

WHEREAS, the Common Council further finds that the Board of Public Works has fixed and determined the cost of acquisition of said described property; that said costs will be financed by

an Urban Development Action Grant (hereafter "Grant") from the United States Department of Housing and Urban Development, by Redevelopment Commission funds on hand, Parking Meter Fund monies on hand, and from the sale of parking revenue bonds; and has received bids for the construction of said facilities after published notice as required by law, and the cost thereof, including all incidental expenses necessary to be incurred in connection therewith and in connection with the issuance of bonds on account thereof, will be in the amount of Three Million One Hundred Five Thousand Dollars ($3,105,000); that said Board has requested the Common Council to authorize the issuance of revenue bonds in the amount of One Million Dollars ($1,000,000) for that purpose under the provisions of Indiana Code Title 19, Article 5, Chapter 11; and

WHEREAS, the Council finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds to provide the necessary funds to pay the cost of said off-street parking facilities have been complied within accordance with the provisions of the governing statutes; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The Board of Public Works be, and it is hereby, authorized and directed to proceed with the purchase and construction of the off-street parking facilities which shall be designated on the books of the City as "Civic Center Parking Garage". Said facilities so designated shall include the following described lands:

Beginning at the point of intersection of the northerly right-of-way line of Washington Boulevard and the easterly right-of-way line of Clinton Street; thence westerly along the northerly right-of-way line of Washington Boulevard to the westerly right-of-way line of Calhoun Street; thence southerly along the westerly right-of-way line of Calhoun Street to the southerly right-of-way line of the alley connecting Clinton Street on the east and Calhoun Street on the west; thence easterly along the southerly right-of-way line of said alley to the easterly right-of-way line of Clinton Street; thence northerly along the easterly right-of-way line of Clinton Street to the point of beginning.

and all improvements thereto and structures, equipment and appurtenances now or hereafter placed thereon. Said facilities shall be constructed on said lands as described hereinabove and in accordance with the descriptions, plats, specifications and estimates adopted by said Board. The share of the cost of acquisition and construction of said facilities to be paid from the proceeds of bonds, including all incidental expenses necessary to be incurred in connection therewith and in connection with the issuance of bonds on account thereof, shall not exceed the sum of One Million Dollars($1,000,000). No obligation shall be incurred beyond the extent to which money has been or may be made available to the Board of Public Works by the Common Council, from the proceeds of the Grant, or from funds on hand.

Said project shall be constructed and operated, and the bonds herein authorized shall be issued, pursuant to and in accordance with the provisions of Indiana Code Title 19, Article 5, Chapter 11, and acts supplemental thereto, hereinafter sometimes referred to as the "Act". The terms "parking facility", "facility", "off-street parking facilities", "facilities", or "project", as used in this ordinance, shall mean and refer to the Civic Center

Parking Garage as herein defined, and shall include the lands therein described on which said projects are to be located, all structures and improvements at, placed or made on said lands, entrances, exits, equipment and all other accessories or appurtenances necessary or desirable for safety and convenience in the off-street parking of vehicles.

SECTION 2. For the purpose of procuring funds to be applied on the cost of said Civic Center Parking Garage, the City of Fort Wayne shall issue its off-street parking revenue bonds in the amount of One Million Dollars ($1,000,000).

Said bonds shall be issued in the denomination of Five Thousand Dollars ($5,000) each, numbered consecutively from 1 to 200 inclusive, dated as of September 1, 1979, and shall bear interest at a rate or rates not exceeding seven and one-half per cent (7-1/2%) per annum, the exact rate or rates to be determined by bidding, payable on the first days of January and July in each year, beginning on July 1, 1980. Such interest shall be evidenced by coupons attached to said bonds. Both bonds and interest coupons shall be payable in lawful money of the United States of America at the main office of Fort Wayne National Bank in the City of Fort Wayne, Indiana, and, at the option of the holder, at such other bank or trust company as may be mutually agreed upon with the successful bidder at the time of sale of the bonds. Said bonds shall mature serially in numerical order on January 1 in the years and amounts as follows:

Year	Amount	Year	Amount	Year	Amount	Year	Amount
1982	15,000	1988	20,000	1994	35,000	2000	55,000
1983	15,000	1989	25,000	1995	40,000	2001	60,000
1984	20,000	1990	25,000	1996	40,000	2002	60,000
1985	20,000	1991	30,000	1997	45,000	2003	70,000
1986	20,000	1992	30,000	1998	45,000	2004	70,000
1987	20,000	1993	30,000	1999	50,000	2005	75,000
						2006	85,000

SECTION 3. The bonds of this issue maturing on ~~July 1,~~ January 1, ~~1995~~ 1996 or thereafter, shall be redeemable prior to maturity at the option of the City on July 1, 1995, or any interest payment date thereafter, in their inverse numerical order, at the principal amount thereof and accrued interest to the date fixed for redemption, plus the following premiums:

3% if redeemed on July 1, 1995, or thereafter on or before January 1, 1998;

2% if redeemed on July 1, ~~1999~~ 1998, or thereafter on or before January 1, 2003;

1% if redeemed on July 1, 2003, or thereafter prior to maturity;

Notice of such redemption shall be published at least thirty (30) days prior to the date fixed for redemption at least one time in a newspaper of general circulation printed and published in the City of Fort Wayne, Indiana, and a financial journal of general circulation published in the Borough of Manhattan, City and State of New York. If any of the bonds so to be redeemed are registered, such notice shall be mailed to the address of the registered holder as shown on the registration record of the City. The notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. The place of redemption may be any bank determined by the City. Interest on the bonds so called for redemption shall cease onthe redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named and when said bonds shall be presented for redemption. If any unmatured bond and coupon or coupons so called for redemption shall not be presented on the date fixed for redemption at the place of redemption, the City may place in trust at the bank constituting the place of redemption sufficient funds to effect such redemption,

and thereafter the holder of such bond and coupon or coupons shall be entitled to payment only from such trust funds and the redemption thereof shall be deemed to have been effected and the bonds no longer outstanding.

SECTION 4. Said bonds shall be signed in the name of the City of Fort Wayne by the Mayor, countersigned by the City Controller, and attested by the City Clerk, who shall affix the seal of said City to each of said bonds. The interest coupons attached to said bonds shall be executed by placing thereon the facsimile signatures of the Mayor and City Controller, and said officials, by the signing of said bonds, shall adopt as and for their own proper signatures the facsimile signatures appearing on said coupons. Said bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana.

Said bonds shall be negotiable by delivery unless registered. Upon presentation of any of the bonds at the office of the City Controller in the City of Fort Wayne, said City Controller shall register said bonds as to principal without charge or expense to the holder. Such registry shall be noted on each bond so presented, after which no transfer thereof shall be valid unless made by the registered holder in person or by his attorney duly authorized and similarly noted on such bond, but bonds so registered may be discharged from registry by being in like manner retransferred to bearer, after which they shall be transferable by delivery but may again be registered as before. The registration of any bond shall not affect the negotiability of the interest coupons attached thereto, but such coupons shall continue to pass by delivery merely and shall remain payable to bearer.

Said bonds, as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon all the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, maintenance and repair) of the off-street parking facilities herein designated as Civic Center Parking Garage, and all additions and improvements thereto and replacements thereof subsequently constructed or acquired; also the unobligated net revenue derived from on-street parking meters to the extent hereinafter specifically provided. The City shall not be obligated to pay said bonds or the interest thereon except from said revenues, and said bonds shall not constitute an indebtedness of the City of Fort Wayne within the meaning of the provisions and limitations of the constitution of the State of Indiana.

SECTION 5. The form and tenor of said bonds, the interest coupons to be attached thereto, and the form of registry endorsement thereon, shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

UNITED STATES OF AMERICA
State of Indiana County of Allen

No. _____ $5,000

CITY OF FORT WAYNE
OFF-STREET PARKING REVENUE BOND
SERIES CIVIC CENTER PARKING GARAGE

The City of Fort Wayne, in Allen County, State of Indiana, for value received, hereby promises to pay to the bearer hereof, or if this bond be registered then to the registered holder, solely out of the special revenue fund hereinafter referred to, the principal amount of

FIVE THOUSAND DOLLARS

on the first day of January, _____ (unless this bond be subject to and be called for redemption prior to maturity

as hereinafter provided), and to pay interest thereon from the date hereof until the principal is paid, at the rate of _____per cent (_____%) per annum, payable on the first days of January and July in each year, beginning on July 1, 1980, upon presentation and surrender of the annexed coupons as they severally become due.

Both principal and interest of this bond are payable in lawful money of the United States of America at the main office of Fort Wayne National Bank, in the City of Fort Wayne, Indiana, or, at the option of the holder, at _____, in the City of_____, _____.

This bond is one of an authorized issue of _____ _____ (_____) bonds of the City of Fort Wayne, of like date, tenor and effect, except as to numbering, rates of interest, and dates of maturity, in the total amount of _____ ($_____), numbered from 1 to _____ inclusive. issued for the purpose of providing funds to pay the cost of off-street parking facilities in the City designated as "Civic Center Parking Garage", as authorized by an ordinance adopted by the Common Council of the City of Fort Wayne on the _____day of _____, 1979, entitled "An Ordinance of the City of Fort Wayne concerning the acquisition of land and the construction, maintenance, operation and financing of off-street parking facilities thereon, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said project, the safeguarding of the interests of the holders of said bonds, and other matters connected therewith", and in strict compliance with the provisions of Indiana Code Title 19, Article 5, Chapter 11, and acts supplemental thereto.

Pursuant to the provisions of said Act and said ordinance, the principal and interest of this bond and all other bonds of said issue are payable solely from the Parking Sinking Fund - Civic Center Parking Garage (created by said ordinance) to be provided from the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, maintenance and repair) of the off-street parking facilities, Civic Center Parking Garage, including the facilities constructed or acquired by the use of the proceeds of this bond and the issue of which it is a part, and all additions and improvements thereto and replacements thereof subsequently constructed or acquired, and from the unobligated net revenues derived from on-street parking meters pledged to said fund. This bond shall not constitute an indebtedness of the City of Fort Wayne within the meaning of the provisions and limitations of the constitution of the State of Indiana, and the City shall not be obligated to pay this bond or the interest thereon except from said special fund.

The City irrevocably pledges the entire net revenues of said Civic Center Parking Garage, off-street parking facilities, together with the unobligated net revenue

derived on and after September 1, 1979, from on-street parking meters to the extent provided in said ordinance to the prompt payment of the interest and principal of the bonds issued on account of the construction of said Civic Center Parking Garage facilities, of which this is one, and covenants that it will cause to be fixed, maintained and collected such charges for service rendered by said facilities which, together with the pledged unobligated net revenues derived from on-street parking meters, are sufficient in each year for the payment of the proper and reasonable expense of operation, maintenance and repair of said facilities and for the payment of the sums required to be paid into the Parking Sinking Fund - Civic Center Parking Garage under the provisions of said Act and said authorizing ordinance. The holder of this bond or any coupon appertaining thereto may, by appropriate legal action, enforce and compel performance of all the duties required by the governing Act or by the authorizing ordinance to be performed by the City or any officer or body thereof, including the fixing and collecting of proper parking charges, or charges for other service rendered by off-street parking Civic Center Parking Garage. If there be any failure to pay the interest on or principal of this issue of bonds in accordance with the terms thereof, a receiver may be appointed to administer said parking facilities, with power to fix and collect charges sufficient to provide for the payment of this bond and the interest thereon, and to apply the revenues in conformity with the provisions of said Act and ordinance.

The City further covenants that all of the income and revenues of said Civic Center Parking Garage facilities shall be set aside daily, as received, into a separate and special fund to be designated as "Parking Fund - Civic Center Parking Garage"; that out of said fund there shall be paid the cost of operation, maintenance and repair of the facilities for the current calendar month and a sufficient amount reserved to pay such cost for the calendar month then next succeeding; that the balance of the moneys in said fund shall be deemed to be the net revenues of the facilities and shall, on the first day of each calendar month, be transferred and set aside into a separate and special fund designated as "Parking Sinking Fund - Civic Center Parking Garage" to the extend provided in said ordinance; that on the first day of each calendar month, beginning September 1, 1979, it will set aside revenues derived from its on-street parking meters into said Sinking Fund to the extent provided in said ordinance.

The bonds of this issue maturing on July 1, 1995, January 1, 1996 are redeemable prior to maturity at the option of the City from available revenues, in whole, or from time to time in part, by lot in such manner as the City determines to be fair and equitable, on July 1, 1995, or any interest payment date thereafter, at the principal amount thereof and accrued interest to the date fixed for redemption, plus the following premiums:

3% if redeemed on July 1, 1995, or thereafter on or before January 1, 1998;
2% if redeemed on July 1, ~~1999~~ 1998, or thereafter on or before January 1, 2003;
1% if redeemed on July 1, 2003, or thereafter prior to maturity.

Notice of such redemption shall be published in a newspaper at least thirty (30) days prior to the date fixed for redemption at least one time in a newspaper of general circulation printed and published in the City of Fort Wayne, Indiana, and a financial journal of general circulation published in the Borough of Manhattan, City and State of New York. A like notice shall be sent by mail to the holders of such bonds as are then registered. Interest on bonds so called for redemption shall cease on the redemption date fixed in said notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named and when presented for payment. If any unmatured bond and coupon or coupons so called for redemption shall not be presented on the date fixed for redemption at the place of redemption, the City may place in trust at the bank constituting the place of redemption sufficient funds to effect such redemption, and thereafter the holder of such bond and coupon or coupons shall be entitled to payment only from such trust funds and the redemption thereof shall be deemed to have been effected and the bonds no longer outstanding.

This bond and all other bonds of said issue shall have all the qualities and incidents of negotiable instruments under the laws of the State of Indiana. This bond may be registered as to principal at the office of the City Controller in the City of Fort Wayne, Indiana, in the name of the owner hereof, and such registration noted hereon by said City Controller. Thereafter no transfer hereof shall be valid unless made at said office by the registered owner in person or by his duly authorized attorney and similarly noted hereon, but this bond may be discharged from registration by being in like manner transferred to bearer and may again from time to time be registered or transferred to bearer as before. Such registration shall not restrict or affect the negotiability of the interest coupons hereto attached by delivery only, but such interest coupons shall always be payable to bearer.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County, State of Indiana, has caused this bond to be executed in its corporate name by its Mayor, countersigned by its City Controller, its corporate seal to be hereunto affixed and attested by its City Clerk, and the interest coupons hereto attached to be executed by placing thereon the facsimile signatures of said Mayor and City Controller, as of the _____ day of _____, 1979.

CITY OF FORT WAYNE
By_____
Mayor

Countersigned:

_____
City Controller

Attest:

_____
City Clerk

(Interest Coupon)

Coupon No. _____ $_____

On _____1, _____(unless the bond herein mentioned shall be subject to and shall have been called for previous redemption), the City of Fort Wayne, Indiana, will pay to bearer at the main office of Fort Wayne National Bank, in the City of Fort Wayne, Indiana, or, at the option of the holder, at _____ _____, in the City of _____ _____, _____, out of its Parking Sinking Fund - Civic Center Parking Garage, _____ _____ Dollars in lawful money of the United States of America, being the interest then due on its Off-Street Parking Revenue Bond, Series Civic Center Parking Garage dated _____ 1, _____, No. _____.

CITY OF FORT WAYNE
By_____(Facsimile)
Mayor

_____(Facsimile)
City Controller

REGISTRATION ENDORSEMENT

This bond can be registered only at the office of the City Controller in the City of Fort Wayne, Indiana. No writing hereon except by the City Controller.

Date of Registry	In Whose Name Registered	City Controller
_____	_____	_____
_____	_____	_____
_____	_____	_____

SECTION 6. The City Controller is hereby authorized and directed to have said bonds and coupons prepared, and the Mayor, City Controller and City Clerk are hereby authorized and directed to execute said bonds and the interest coupons to be attached thereto, in the form and manner herein provided. The City Controller is hereby authorized and directed to deliver said bonds to the purchaser thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of said delivery the City Controller shall collect the full amount which the purchaser has agreed to pay therefor, which shall not be less than the face value of said bonds, plus accrued interest from the date thereof to the date of delivery. The bonds herein authorized, when fully

paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City, payable out of the revenues to be set aside into the Parking Sinking Fund - Civic Center Parking Garage, as herein provided, and the proceeds derived from the sale of said bonds shall be and are hereby set aside for application on the cost of acquisition, construction and installation of said Civic Center Parking Garage parking facilities hereinbefore referred to, and the expenses necessarily incurred in connection therewith or in connection with the issuance of bonds on account thereof, including interest during construction if required for that purpose. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

SECTION 7. Prior to the sale of said bonds the City Controller shall cause to be published a notice of said sale once each week for two (2) weeks in the Fort Wayne News-Sentinel and Fort Wayne Journal Gazette and a summary notice one time in The Indianapolis Commercial, the last publication to be at least seven (7) days prior to the date fixed for said sale. The bond sale notice shall state the time and place of sale, the character and amount of the bonds, the maximum interest rate, the terms and conditions upon which bids shall be received and the sale made, and such other information as the City Controller and the attorneys employed by the City shall deem advisable. Said notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in the amount of two per cent (2%) of the par value of the bonds, to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the

proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default; also, that bidders for said bonds will be required to name the rate or rates of interest which the bonds are to bear and that such interest rate or rates shall be in multiples of one-fourth (1/4) or one-tenth (1/10) of one per cent (1%); also that the opinion of Ice Miller Donadio & Ryan, bond counsel of Indianapolis, Indiana, approving the legality of said bonds, will be furnished to the purchaser at the expense of the City, and that no conditional bids will be considered.

The bonds shall be awarded by the City Controller to the highest qualified bidder who has submitted his bid in accordance with the terms of this ordinance and the notice of sale. The highest bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any. The right to reject any and all bids shall be reserved. The City Controller shall be authorized to continue the sale from day to day for a period of thirty (30) days without readvertisement; provided, however, that if the sale be continued no bid shall be accepted which is lower than the highest bid received at the time fixed for said sale in the bond sale notice.

SECTION 8. The accrued interest and the premium received at the time of the delivery of the bonds, if any, together with such amount of the proceeds of the bonds as shall equal the interest accruing on the bonds for a period of fifteen (15) months following delivery of the bonds, shall be deposited in the Parking Sinking Fund - Civic Center Parking Garage hereinafter created. The remaining proceeds from the sale of said bonds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts,

separate and apart from all other bank accounts of the City, to be designated as "City of Fort Wayne, Civic Center Parking Garage Construction Account". All funds deposited to the credit of said construction account shall be deposited, held, secured or invested as provided by the laws of the State of Indiana relating to the depositing, holding, securing and investing of public funds. The moneys in said special account or accounts shall be expended only for the purpose of paying the cost of said Civic Center Parking Garage parking facilities or as otherwise required by said Act and this ordinance. Any balance or balances remaining unexpended in such special account or accounts within ninety (90) days after completion of the facilities which are not required to meet unpaid obligations incurred in connection with such construction shall be paid into the Parking Sinking Fund - Civic Center Parking Garage, and shall be used solely for the purposes of said fund. Any interest or other accretions derived from any investment of funds in said construction account shall become a part of the funds invested.

SECTION 9. The income and revenues of Civic Center Parking Garage parking facilities shall be set aside and deposited daily as received in a separate and special fund to be designated as "Parking Fund - Civic Center Parking Garage" (herein called the "Parking Fund"). The moneys in said fund shall be kept on deposit in legally designated depositories for funds of the City, in an account separate and apart from all other bank accounts of the City, and shall be continuously held and secured as provided by the laws of the State of Indiana relating to the depositing, securing and holding of public funds. In no event shall any of the revenues or funds of said facilities be transferred or used for any purpose not authorized by this ordinance, or reasonably implied by the provisions thereof, so long as there are outstanding any bonds payable out of the income and revenues of the facilities.

The City Controller shall be the custodian of all funds received or derived from the operation of said Civic Center Parking Garage facilities, and all checks or warrants payable out of said funds shall be signed by the City Controller. The City Controller shall be authorized to make the transfers to the various funds and accounts herein provided for and to apply the funds in the Parking Sinking Fund - Civic Center Parking Garage to the payment of the interest on and principal of the bonds payable from the revenues of the facilities without further order or direction.

SECTION 10. The Parking Fund shall be divided into two accounts, viz., the Operation and Maintenance Account - Civic Center Parking Garage, and the Net Revenue Account - Civic Center Parking Garage (herein called "Operation and Maintenance Account" and "Net Revenue Account" respectively). All income and revenues received in the Parking Fund shall as received be credited to such accounts in the following order: there shall be credited to the Operation and Maintenance Account as of the first business day of each calendar month an amount, which, together with the unexpended balance remaining therein, is equal to the estimated reasonable expenses of operation, maintenance and repair for the then current month and the then next succeeding calendar month. The reasonable expenses of operation, maintenance and repair shall include, but not be limited to, salaries, wages, cost of materials and supplies, purchase of power for light; also, paying agency fees on bonds, insurance premiums, the reports provided for in this ordinance, and the monthly pro-rata portion of other similar costs normally paid on a quarterly, semi-annual, annual or quadrennial basis; provided, however, that such expenses shall exclude the cost of replacements, additions, extensions, improvements or other capital items, depreciation, and any general administrative expenses of the City. There shall be credited to the Net Revenue Account all remaining income and revenues derived from the Civic Center Parking

Garage off-street parking facilities after meeting the requirements of the Operation and Maintenance Account.

SECTION 11. There is hereby created a fund to be designated as "Parking Sinking Fund - Civic Center Parking Garage" (herein called the "Parking Sinking Fund"), which fund shall, subject to the provisions hereinafter provided for investment, be kept on deposit in legally designated depositories for funds of the City in an account separate and apart from all other bank accounts of the City and shall be continuously held and secured, or invested, in accordance with the laws of the State of Indiana relating to the depositing, holding and securing, or investing of public funds. The funds in said Parking Sinking Fund shall be administered in the following manner:

Upon delivery of the bonds herein authorized, the accrued interest and premium, together with such amount of the proceeds of the bonds as shall equal the interest accruing on the bonds for a period of fifteen (15) months following delivery of the bonds, shall, as provided in Section 8 hereof, be credited to the Bond and Interest Account. Beginning January 1, 1981, there shall be withdrawn as of the first calendar day of each month from the Net Revenue Account of the Parking Fund and deposited in the Parking Sinking Fund an amount equal to the sum of not less than one-fifth (1/5) of the interest payable on the then next succeeding interest payment date and one-tenth (1/10) of the principal payable on the then next succeeding principal payment date on all then outstanding bonds until the amount of interest and principal payable on the then next succeeding respective principal and interest payment dates shall have been so credited.

Whenever the balance remaining in the Parking Sinking Fund is equal to the amount of principal and interest of all bonds then outstanding, then no further deposits need to be made to said Parking Sinking Fund.

The City hereby pledges all of the unobligated net revenues derived from on-street parking meters received on and after September 1, 1979, to the extent required, to make up any deficiencies in annual deposits required hereinbefore to be made from the Net Revenue Account to the Parking Sinking Fund. The phrase "unobligated net revenues derived from on-street parking meters", as used in this ordinance, shall be construed to mean the gross revenues received by the City from the operation of on-street parking meters after deduction only for the reasonable expense of operation, maintenance and repair of the on-street meters owned and operated by the City, not including the purchase price of any additional meters acquired; provided, that the City reserves the right to acquire additional meters from time to time and pledge a portion of the revenues collected from such additional meters to the payment of the purchase price thereof.

SECTION 12. There is hereby created a fund to be designated as "Parking Replacement and Improvement Fund - Civic Center Parking Garage" (herein called the "Replacement and Improvement Fund"), which fund shall be maintained as a separate bank account apart from all other bank accounts of the City and the moneys therein shall be deposited, held and secured, or invested in accordance with the laws of the State of Indiana relating to the depositing, holding and securing, or investing of public funds. Any residual revenues of the Civic Center Parking Garage off-street parking facilities remaining after meeting the foregoing requirements of the Parking Fund and Parking Sinking Fund shall be deposited in said Replacement and Improvement Fund and, together with any other funds from other sources which may from time to time be made available by the City, may be used to pay the cost of extraordinary repairs, replacements, additions, extensions and improvements to the Civic Center Parking Garage facilities or any other legal obligations of the said facilities; provided, however,

that any moneys in said Replacement and Improvement Fund shall be transferred to the Parking Sinking Fund to the extent needed to make up any deficiencies in the accounts thereof.

SECTION 13. Subject to the approval of the Board of Public Works, the proper officer of the City is hereby authorized to invest, to the extent permitted by law, in direct obligations of the United States Government, or obligations of instrumentalities and agencies thereof which are fully guaranteed by the United States of America, such portion of the funds in said Parking Sinking Fund, and the Replacement and Improvement Fund as shall not be required for immediate use. Any interest or other accretions derived from any such investments shall become a part of the respective accounts of said Parking Sinking Fund, or Replacement and Improvement Fund, as the case may be, so invested.

SECTION 14. The City shall cause to be prepared and distributed quarterly construction progress reports, certified by the architect or engineer in charge of construction of the Civic Center Parking Garage parking facilities, to the original purchaser of the bonds, and to any bondholder who requests the same, setting forth the amount of dollars expended to date of the report, the percentage completion of each parking facility in the Civic Center Parking Garage, and the scheduled date of completion of each. The City shall keep proper books of record and account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all income and revenues derived from the operation of said Civic Center Parking Garage parking facilities and all disbursements made therefrom on account of the operation of the facilities and all other financial transactions relating to the facilities. There shall be prepared and furnished to the original purchaser of the bonds and, upon written request, to any holder or holders of outstanding bonds, not more than ninety (90) days after the close of each calendar year, an

annual statement containing operating and income statements and balance sheets of the facilities and the on-street parking operations in reasonable detail, covering the preceding calendar year, and a statement of the amounts transferred and credited to the Parking Sinking Fund and the cash balances therein and in the Parking Fund and Replacement and Improvement Fund as of the end of such calendar year; also, including a statement of the number of parking spaces in the facilities, the number of on-street parking meters, and any changes in off-street and on-street parking rates and charges, as of the end of such calendar year, which annual statement shall be certified by the City Controller or by the person charged with the duty of auditing the books and records relating to the facilities. After the first full year of operation of Civic Center Parking Garage and every four (4) years thereafter, the City shall employ nationally recognized parking consultants to review the operation of the City's off-street parking facilities and the operation and administration of the on-street parking meter system. Said review shall include, but not be limited to, the adequacy of rates and charges and enforcement for the effective control of traffic and to meet financial requirements and as to the location and mode of operation of the foregoing. Said review shall be embodied in a written report including the consultants' comments and recommendations which shall be filed and maintained in the office of the City Controller, and a copy thereof shall be furnished to the original purchaser of the bonds, and, upon written request, to any holder or holders of outstanding bonds. The cost of such review and report shall be considered a maintenance and operation expense. Copies of all such statements and balance sheets and other reports relating to said Civic Center Parking Garage shall be kept on file in the office of the City Controller, and the original purchaser of the bonds, or any bondholder, shall have the right at all reasonable times to inspect the facilities and all

records, accounts and data of the City relating thereto. Such inspections may be made personally or by representatives duly authorized by written instrument.

SECTION 15. The City shall, to the fullest extent permitted by law, establish, maintain and collect reasonable charges for the services afforded by said Civic Center Parking Garage parking facilities which, together with the on-street parking revenues pledged by the City to the Parking Sinking Fund - Civic Center Parking Garage, will provide revenues sufficient to pay the reasonable and proper cost of operation, maintenance and repair of the facilities, to pay the principal of and interest on all bonds payable from the revenues of the facilities as the same become due, and to maintain the Parking Sinking Fund - Civic Center Parking Garage as herein provided. So long as any of the bonds herein authorized are outstanding, none of the services afforded by said facilities shall be furnished without a reasonable charge being made therefor, and such charge shall be made for any service rendered to the City or any department, agency or instrumentality thereof, and shall be charged against the City and paid for as the charges accrue.

SECTION 16. For the purpose of further safeguarding the interests of the holders of the bonds, it is specifically provided as follows:

(a) All contracts to be let for the construction of said facilities shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred per cent (100%) of the amount of such contracts to insure the completion of such contracts in accordance with their terms, and contractors shall be required to carry such employers' liability, public liability and other insurance as required under the laws of the State of Indiana.

(b) All construction shall be contracted for and performed under the supervision of qualified architects or engineers. All estimates for work done and material furnished in connection with such construction shall first be checked and approved by such engineers prior to approval by the Board of Public Works for payment.

(c) The City shall at all times maintain the facilities and its on-street parking meters in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) To the extent that the City owns, leases, or in any manner controls the revenues from any additional off-street parking facilities, rates and charges for parking at such additional facilities shall be set at such a level as will not materially reduce the revenues of the Civic Center Parking Garage facilities.

(e) The Board of Public Works, subject to the approval of the Common Council, shall establish regulations governing the use and operation of the facilities so as to promote the maximum use thereof by the public in a safe, orderly and efficient manner, prior to the opening of said facilities for operation.

(f) So long as any bonds payable from the revenues of said Civic Center Parking Garage are outstanding, the City shall carry insurance on said facilities of the kinds and in the amounts which are usually carried by private parties operating similar projects, including fire and public liability insurance, and all additional insurance covering such risks as shall be found necessary or advisable by the Board of Public Works. All moneys received for loss under such insurance policies shall be used in making good the loss or damage of the Civic Center Parking Garage parking facilities. The payment of premiums for all insurance herein required shall be considered a maintenance and operation expense.

(g) So long as any bonds payable from the revenues of

off-street parking facilities - Civic Center Parking Garage are outstanding, the City shall not mortgage, pledge or hypothecate the facilities or any part thereof, and shall not sell, lease or otherwise dispose of any portion thereof, except such equipment which may become worn out or obsolete and shall be replaced.

(h) So long as any of the bonds authorized by this ordinance are outstanding, no additional bonds or other obligations pledging any portion of the revenues of Civic Center Parking Garage parking facilities shall be issued by the City unless the same be made subordinate and junior in all respects to the bonds authorized by this ordinance, unless all of the bonds authorized by this ordinance are redeemed and cancelled coincidentally with the delivery of such additional bonds or other obligations.

(i) The provisions of this ordinance shall constitute a contract by and between the City and the holders of the bonds herein authorized, all of the terms of which shall be enforceable at law or in equity, and after the issuance of said bonds this ordinance shall not be repealed or amended in any way which will adversely affect the rights and interests of the holders of said bonds; nor shall the Common Council of the City adopt any law, ordinance or resolution in any way adversely affecting the rights of such holders so long as any of said bonds or the interest thereon remain unpaid. The holders of said bonds shall have all of the rights, remedies and privileges either expressly set forth in the provisions of Indiana Code Title 19, Article 5, Chapter 11 and the acts supplemental thereto, or implied therein, including the right to compel the collection of sufficient rates and charges to provide for the payment of the interest on and principal of the bonds authorized by this ordinance or the transfer of sufficient revenues derived from the operation of on-street parking meters for that purpose; also, in the event of any default in the payment of interest or principal of the bonds, in accordance with the terms thereof, to have a receiver appointed to administer the facilities

and collect and apply the revenues thereof in accordance with the provisions of the governing Act and this ordinance.

(j) None of the provisions of this ordinance shall be construed as requiring the expenditure of any funds of the City derived from any source other than the proceeds of the bonds authorized by this ordinance, the revenues derived from the operation of said Civic Center Parking Garage parking facilities, and the unobligated net revenues derived from the operation of on-street parking meters.

SECTION 17. Subject to the terms and provisions contained in this section, and not otherwise, the holders of not less than sixty-six and two-thirds per cent (66-2/3%) in aggregate principal amount of the bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Common Council of the City of Fort Wayne of such ordinance or ordinances supplemental hereto, as shall be deemed necessary or desirable by the City of Fort Wayne for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on any bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues of the Civic Center Parking Garage parking facilities ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any bond or bonds issued pursuant to this ordinance over any other bond or bonds issued

pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance. The holders of not less than sixty-six and two-thirds per cent (66 2/3%) in aggregate principal amount of the bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the City Controller of the City of Fort Wayne. No holder of any bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City of Fort Wayne from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City of Fort Wayne and all holders of bonds issued pursuant to the provisions of this ordinance then outstanding, shall thereafter be determined exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the holders of the bonds authorized by this ordinance, and the terms and provisions of the bonds and this ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the City of Fort Wayne and the consent of the holders of all the bonds issued pursuant to this ordinance then outstanding.

APPROVED AS TO
FORM & LEGALITY

William N. Salin, City Attorney

SECTION 18. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 19. This ordinance shall be in full force and effect from and after its passage.

Vivian G. Schmidt
Councilman

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (~~and the City Plan Commission for~~ recommendation) and Public Hearing to be held ~~after due legal notice, at the Council Chambers,~~ City-County Building, Fort Wayne, Indiana, on _____, ~~the~~ _____ day of _____, 19__, at _____ o'clock _____ M., E.S.T.

DATE: 8-14-79

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BURNS	X				
HINGA	X				
HUNTER	X				
MOSES	X				
NUCKOLS				X	
SCHMIDT, D.	X				
SCHMIDT, V.	X				
STIER	X				
TALARICO	X				

DATE: 8-28-79

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) No. G-143-79 on the 28th day of August, 1979.

ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

Winfield C. Moses Jr.
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of August, 1979, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 4th day of September, 1979 at the hour of 3 o'clock P.M., E.S.T.

Robert Armstrong
MAYOR

Bill No. S-79-08-09

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance of the City of Fort Wayne concerning the acquisition of land and the construction, maintenance, operation and financing of off-street parking facilities thereon, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said project, the safeguarding of the interests of the holders of said bonds, and other matters connected therewith

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance Do PASS.

VIVIAN G. SCHMIDT - CHAIRMAN	Vivian G. Schmidt
WILLIAM T. HINGA - VICE CHAIRMAN	William T. Hinga
JAMES S. STIER	Jim Stier
JOHN NUCKOLS	
DONALD J. SCHMIDT	D J Schmidt

8-28-79 CONCURRED IN
DATE CHARLES W. WESTERMAN, CITY CLERK

10

TITLE OF ORDINANCE SPECIAL ORDINANCE CONCERNING ACQUISITION, CONSTR. OF PKG. GARAGE & ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF & DISTR. OF REVENUES

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS S-79-08-09

SYNOPSIS OF ORDINANCE ORDINANCE OF THE CITY OF FORT WAYNE CONCERNING THE ACQUISITION OF LAND AND THE CONSTRUCTION, MAINTENANCE, OPERATION AND FINANCING OF OFF-STREET PARKING FACILITIES THEREON, THE ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF, THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SAID PROJECT, THE SAFEGUARDING OF THE INTERESTS OF THE HOLDERS OF SAID BONDS, AND OTHER MATTERS CONNECTED THEREWITH.

(ORDINANCE REGARDING ABOVE ATTACHED HEREWITH)

EFFECT OF PASSAGE ABILITY TO CONSTRUCT PARKING GARAGE

EFFECT OF NON-PASSAGE INABILITY TO CONSTRUCT PARKING GARAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) INCOME FROM LEASE AGREEMENTSWILL RETIRE BOND ISSUE

ASSIGNED TO COMMITTEE Finance

EP